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5 Attorneys for Defendant Nugget Construction, Inc.

6  
7 IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA  
8 AT ANCHORAGE

9 UNITED STATES OF AMERICA for the  
use of NORTH STAR TERMINAL &  
10 STEVEDORE COMPANY, d/b/a NORTHERN  
STEVEDORING & HANDLING, and NORTH  
11 STAR TERMINAL & STEVEDORE COMPANY,  
d/b/a Northern Stevedoring &  
12 Handling, on its own behalf,

13 Plaintiffs,

14 and

15 UNITED STATES OF AMERICA for the  
use of SHORESIDE PETROLEUM, INC.,  
16 d/b/a Marathon Fuel Service, and  
SHORESIDE PETROLEUM, INC., d/b/a  
Marathon Fuel Service, on its own  
17 behalf,

18 Intervening Plaintiffs,

19 and

20 METCO, INC.,

21 Intervening Plaintiff,

22 vs.

23 NUGGET CONSTRUCTION, INC.; SPENCER  
ROCK PRODUCTS, INC., UNITED STATES  
FIDELITY AND GUARANTY COMPANY; and  
ROBERT A. LAPORE,

24 Defendants.

NO. A98 009 CIV (HRH)

**REPLY TO PLAINTIFFS'  
OPPOSITION TO DEFENDANT  
NUGGET CONSTRUCTION'S  
MOTION TO EXTEND DEADLINE  
FOR EXPERT REPORTS**

1  
2 That Plaintiffs oppose Defendant Nugget's Motion to Extend  
3 Deadline for Expert Reports is not surprising, as the parties  
4 have agreed on very little during the course of this litigation.  
5 However, what is suprising is the vitriolic nature of their  
6 opposition to a very straight forward request to extend the  
7 deadline for one expert report, so that it can incorporate the  
8 testimony of North Star's primary witness, Jack Goodwill. As  
9 stated in Nugget's Motion, an attempt to seek agreement on the  
10 requested extension was made prior to bringing the motion.<sup>1</sup> When  
11 Plaintiffs would not agree, Nugget filed a simple request asking  
12 the court to extend the deadlines to address the fact that Mr.  
13 Goodwill was unavailable for an extended period of time.  
14 Nugget's Motion should be granted.<sup>2</sup>  
15  
16

17 Plaintiffs argue that they will be prejudiced if Nugget is  
18 allowed to profer its expert report after Mr. Goodwill's  
19 deposition and if the deposition of that expert is extended  
20 beyond the current discovery cutoff date. Plaintiffs do not  
21

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22 <sup>1</sup> Nugget understood that permission from the court was still required even if  
23 all parties agreed; however, it sought concurrence from Plaintiffs to allow  
24 it to state that there was no opposition to the request, which was not  
25 obtained.

<sup>2</sup> USF&G, through its separate counsel, has filed its own response to  
Plaintiffs' oppositions, as they specifically attack USF&G's right to provide

1 explain how they are prejudiced in the absence of a current  
2 trial date in this matter. The fact that their counsel have  
3 personal vacations planned in April should not preclude  
4 plaintiffs from taking one day to depose Nugget's expert before  
5 the dispositive motion deadline, should they even choose to do  
6 so. Therefore, to the extent that there may be some prejudice,  
7 it is very small and readily overcome.  
8

9 In its Opposition, North Star implies that it complied with  
10 the expert disclosure requirements, such that it would be  
11 prejudiced if Nugget were now allowed to issue its report at a  
12 later date. This position is misleading at best. The only  
13 expert report proffered by Plaintiffs related to their claims of  
14 bad faith against the surety. There is nothing relating to  
15 Nugget in their expert's report. Thus, Nugget obtains no  
16 advantage by having Plaintiffs' expert report prior to issuing  
17 its own.  
18

19 Nugget's narrow request for an extension of the deadline  
20 for filing its expert report and for the taking of said expert's  
21 deposition is justified by the unavailability of Mr. Goodwill  
22 for deposition, and Plaintiffs have failed to show sufficient  
23

24  
25 rebuttal reports in this litigation. Nugget will not address Plaintiffs'  
arguments concerning USF&G's positions in this reply.

*U.S. ex rel. North Star, et al. v. Nugget Construction, et al.*

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Reply To Motion For Extension of Time

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1 prejudice to preclude the requested extension. As such,  
2 Nugget's Motion should be granted.

3 DATED this 13th day of March, 2006.  
4

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CERTIFICATE OF SERVICE

I hereby certify that on this 13th  
day of March, 2006, a true and correct  
copy of the foregoing was served

electronically via ECF on:

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